



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2018-0007]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 13 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2018-0007 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

The 13 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the

enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA-1998-3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary

only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors – such as age, sex, geographic location, mileage driven and conviction history – are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., “Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,” Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

## **II. Qualifications of Applicants**

### **Ahmed Abukhatwa**

Mr. Abukhatwa, 25, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his ophthalmologist stated, "It is my medical opinion that Mr. Abukhatwa has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Abukhatwa reported that he has driven tractor-trailer combinations for three years, accumulating 240,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

### **James A. Barlow**

Mr. Barlow, 61, has complete loss of vision in his right eye due to a traumatic incident

in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "In my opinion, James has sufficient vision to operate a commercial vehicle with eyeglasses correction." Mr. Barlow reported that he has driven straight trucks for 30 years, accumulating 2.4 million miles, tractor-trailer combinations for five years, accumulating 125,000 miles. He holds a Class A CDL from Ohio. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Thomas R. Danser

Mr. Danser, 56, has optic nerve damage in his right eye due to a traumatic incident in 2012. The visual acuity in his right eye is 20/320, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "The tests indicate that Thomas is able to perform the task [sic] necessary to operate a commercial vehicle." Mr. Danser reported that he has driven straight trucks for one year, accumulating 25,000 miles, and tractor-trailer combinations for six years, accumulating 420,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last three years shows no crashes and one conviction for a moving violation in a CMV; failure to obey a traffic signal.

Jerome DeFabo, Jr.

Mr. DeFabo, 47, has had central retinal artery occlusion in his left eye since 2016. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2018, his optometrist stated, "In my professional medical opinion Jerome has more than sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. DeFabo reported that he has driven straight trucks for 20 years, accumulating 50,000 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last three years shows no crashes

and no convictions for moving violations in a CMV.

Jorge Gonzalez

Mr. Gonzalez, 50, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "He has sufficient vision to operate any commercial vehicle; he is fully capable of recognizing all the colors of traffic control signals."

Mr. Gonzalez reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.4 million miles. He holds a Class A CDL from Florida. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jimmy D. Johnson

Mr. Johnson, 64, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/25. Following an examination in 2017, his optometrist stated, "Based on the above, Mr. Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Johnson reported that he has driven tractor-trailer combinations for 22 years, accumulating 2.86 million miles. He holds an operator's license from Mississippi. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Michael S. Mai

Mr. Mai, 47, has complete loss of vision in his left eye due to a traumatic incident in 2011. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, "In my medical opinion, Michael has sufficient vision, with a best corrected acuity of 20/15 and sufficient field of vision with 135°, to perform the driving tasks required to operate a commercial vehicle; however,

ultimately this decision has to be made by the CDL examiner based on the above information provided." Mr. Mai reported that he has driven straight trucks for 23 years, accumulating 851,000 miles, tractor-trailer combinations for 23 years, accumulating 460,000 miles, and buses for 15 years, accumulating 30,000 miles. He holds a Class A CDL from Kansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jose M. Rios

Mr. Rios, 50, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his ophthalmologist stated, "Mr. Rios vision is sufficient enough for him to be able to operate a commercial vehicle." Mr. Rios reported that he has driven straight trucks for four years, accumulating 26,000 miles. He holds an operator's license from New York. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Michael B. Sauseda

Mr. Sauseda, 46, has had a central vein occlusion in his right eye since 2008. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2018, his ophthalmologist stated, "In my opinion, this patient does have sufficient vision to perform driving tasks required to operate a commercial vehicle."

Mr. Sauseda reported that he has driven straight trucks for two years, accumulating 30,000 miles, and tractor-trailer combinations for 15 years, accumulating 720,000 miles. He holds a Class A CDL from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.



Steven D. Schlichting

Mr. Schlichting, 54, has had a retinal scar in his right eye since birth. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "Mr. Schlichting has the necessary vision to drive a commercial vehicle." Mr. Schlichting reported that he has driven straight trucks for 16 years, accumulating 80,000 miles. He holds an operator's license from Nebraska. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jesse P. Schuster

Mr. Schuster, 41, has a scleral laceration in his left eye due to a traumatic incident in 2013. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2017, his optometrist stated, "He has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schuster reported that he has driven straight trucks for 21 years, accumulating 84,000 miles. He holds a Class B CDL from North Dakota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Joseph L. Smith

Mr. Smith, 48, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is count fingers, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "In my opinion, Mr. Joseph Smith still maintains sufficient vision to operate a commercial motor vehicle." Mr. Smith reported that he has driven straight trucks for five years, accumulating 7,500 miles, and tractor-trailer combinations for 24 years, accumulating 2.88 million miles. He holds a Class A CDL from West Virginia. His driving

record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Larry L. Stewart

Mr. Stewart, 51, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, “I believe based on the field and visual acuity, Mr. Stewart has vision sufficient to operate a commercial vehicle.” Mr. Stewart reported that he has driven tractor-trailer combinations for three years, accumulating 210,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

### **III. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

### **IV. Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2018-0007 and click the search button. When the new

screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

#### **V. Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2018-0007 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

**Issued on:** April 2, 2018

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**Larry W. Minor,**  
*Associate Administrator for Policy.*

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